

1 JUDGE  
2  
3  
4  
5

6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 UNITED STATES OF AMERICA, ) NO. CR10-5308BHS  
10 Plaintiff, )  
11 vs. ) ORDER GRANTING JOINT MOTION  
12 JUAN ANDRES GUTIERREZ-BUSTOS, ) TO EXTEND TIME TO FILE  
13 Defendant. ) INDICTMENT UNDER SPEEDY TRIAL  
14 ACT

15 The Court, having considered the parties' Joint Motion To Extend Time To File  
16 Indictment Under Speedy Trial Act finds that:

17 1. Mr. Gutierrez-Bustos is charged by Felony Information with Eluding  
18 Examination at Entry, first and second offense, alleged to have occurred on or about  
19 November 1, 1997 and June 30, 2002, in violation of Title 8, United States Code, Section  
20 1325(a). Defendant was arrested and made his Initial Appearance on May 6, 2010, at which  
21 time the Court ordered that the defendant be detained in custody pending further proceedings,  
22 and Defendant executed a Waiver of Preliminary Hearing.

23 2. Under the Speedy Trial Act, an Indictment charging a defendant must be filed  
24 within 30 days from the date on which the defendant was arrested or served with a summons  
25 in connection with such charges. 18 U.S.C. §3161(b). Hence, at the present time, the United  
26

1 States must obtain an Indictment in this case on or before May 31, 2010, to meet the  
2 requirements of the Speedy Trial Act.

3       3.     The defendant is diligently conducting an investigation into the circumstances  
4 surrounding his situation at the time of his alleged offense. The defendant does not believe  
5 that his investigation will be completed by the expiration of the time to obtain an Indictment.  
6 The defendant believes that the results of its investigation will be essential to preparing his  
7 defense, and may facilitate a resolution of this matter.

8       4.     Accordingly, the parties are seeking an Order continuing the time within which  
9 an Indictment must be filed on the ground that the "ends of justice served by taking such  
10 action outweigh the best interest of the public and the defendant in a speedy trial," as  
11 permitted by 18 U.S.C. §§ 3161(h)(7)(A), (B)(I) and (B)(iv).

12       5.     Given that the defense's investigation remains incomplete, the parties believe  
13 that the failure to grant this extension would deny the defense the reasonable time necessary  
14 for adequate and effective preparation, taking into account the exercise of due diligence. The  
15 parties believe that a denial of a continuance would result in a miscarriage of justice.

16       6.     The defendant has executed a Waiver of Speedy Trial waiving rights under the  
17 Sixth Amendment and the Speedy Trial Act, 18 U.S.C. §§ 3161-3174 in this regard, and has  
18 further agreed that the period from May 31, 2010, until August 30, 2010, shall be an  
19 excludable period of time under the Speedy Trial Act pursuant to 18 U.S.C. §3161(h)(7)(A).

20       ///

21       ///

22       ///

23       ///

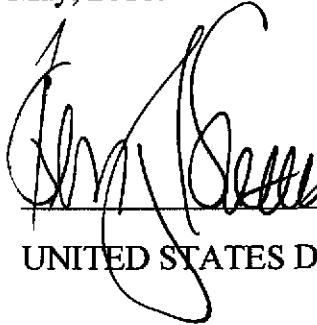
24       ///

25       ///

26       ///

1 In light of the foregoing, IT IS HEREBY ORDERED that the time to file an indictment  
2 be continued to and including August 30, 2010. The period of delay resulting from this  
3 May 31, 2010, to August 30, 2010, is hereby excluded for speedy trial purposes under 18  
4 U.S.C. § 3161(h)(7).

5 DONE this 19 day of May, 2010.



6  
7  
8  
9 UNITED STATES DISTRICT COURT JUDGE

10 Presented by:

11  
12 /s/ Colin Fieman  
13 Colin Fieman  
14 Attorney for Defendant

15  
16 /s/ John C. Odell  
17 John C. Odell  
18 Assistant United States Attorney